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TO

Amend the County Courts (Ireland) Acts.

A.D. 1888.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

- 5 1. This Act shall extend to Ireland only. Application of Act.
2. This Act may be cited as the County Court Appeals (Ireland) Act, 1888. Short title.
3. The terms and expressions used in this Act shall have the same meanings respectively as they have in the County Officers and Courts (Ireland) Act, 1877, unless there is something in the context repugnant thereto. Interpretation of terms.
4. Any party to a suit or matter dissatisfied with any decree, dismiss, direction, or order, of whatsoever nature, and whether adverse to him or in his favour, pronounced by any county court judge in the exercise by him of any jurisdiction in equity under the County Officers and Courts (Ireland) Act, 1877, or the County Court Amendment (Ireland) Act, 1882, or any Act amending the same, may appeal therefrom to the judge of assize for the county in which such decree, dismiss, or direction shall have been made or pronounced; and such judge of assize is hereby empowered and required to hear such suit or matter and to make such decree or order thereon as he shall think proper, or he may remit the suit or matter to the county court judge with such declarations or directions as he shall think proper; and upon the hearing of every such appeal the judge may award all or such of the costs and expenses of witnesses in the court of appeal, and also all or such of the costs and expenses of witnesses in the civil bill court, to be paid by or to such of the parties to the suit or matter

Any party dissatisfied with any judgment may appeal to the judge of assize, who is hereby authorized to hear and determine the same.

[Bill 367.]

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A.D. 1836. — as to him shall seem just, and may order any money deposited by any such party with the clerk of the peace to be applied in or towards payment of such costs or expenses, or to be returned to the party lodging the same, or to be otherwise disposed of in accordance with the decree or order made upon appeal as to such judge shall seem just. 5

Mode of appeal. 5. Every appeal under this Act shall be taken either in the manner and form as nearly as may be, and shall be subject to the conditions specified in the County Court Amendment (Ireland) Act, 1882, or in such manner and form and subject to such conditions as may be prescribed under this Act. 10

Case stated in equity. Civil bill. 6. Any person dissatisfied with the decision on any question of law made by a county court judge exercising jurisdiction in equity under Part II. of the County Officers and Courts (Ireland) Act, 1877, or any Act amending the same, may require the county court judge to direct a special case to be stated; and the county court judge, unless satisfied that the application is frivolous or vexatious, shall cause a case to be stated, and shall sign the same, and it shall be lodged in the prescribed manner in the High Court, and shall be heard and determined by the Lord Chancellor or one of the judges of the Chancery Division amongst whom the Lord Chancellor may distribute such cases. 15 20

A special case may, if necessary, be amended either by consent of the parties or on the certificate of the county court judge by whom the case was directed to be stated, or his successor in office. 25

The Lord Chancellor may, by general or special order, provide for the distribution amongst the judges of the Chancery Division of the High Court of the special cases lodged in court under this section. Until other provision is made by such general or special order for the distribution of the said special cases the same shall be distributed in the manner provided by the orders in force at the passing of this Act for the distribution of equity appeals from county courts, under section forty-five of the County Officers and Courts (Ireland) Act, 1877. 30

Any person having a right to appeal against the decision of a county court judge upon any question, who shall require a case to be stated upon such question, shall upon such case being stated be deemed to have abandoned his right of appeal. 35

Power of judge to state a case or to reserve a question. 27 & 28 Vict. c. 99. s. 24. 7. Any judge of the Supreme Court hearing any appeal under the County Courts (Ireland) Act, 1851, or this Act, or any other Act whereby appeals from a county court may be heard by such 40

judge, in case any question of law shall arise before him in any such appeal which in his judgment may be proper to be decided by the High Court, may reserve any question, or may direct a special case to be stated, for the decision of the High Court. If a question is reserved it shall be heard according to the practice in force at the passing of this Act or in the prescribed manner.

A.D. 1888.

Cases stated shall be lodged in the High Court, and shall be disposed of in such divisions thereof as may be prescribed, and until rules of court are made for prescribing such divisions, such cases, if they relate to causes or matters in equity, shall go to the Chancery Division of the High Court; and if they relate to matters other than in equity, shall be distributed between the Queen's Bench Division and the Exchequer Division of the High Court in the proportion in which actions are distributed. If before rules are made any question arises as to the division to which a case stated shall go, such question shall be decided by the judge by whom the case was stated.

Such cases may, if necessary, be amended either by consent of the parties or on the certificate of the judge by whose direction they were stated.

8. After the decision of a case stated, or a question reserved by a judge hearing appeals from a county court; also after the decision of a case stated by a county court, the county court shall have the same authority to enforce the decree, order, or rule, with reference to which the case was stated, subject to any amendments thereof made by the court hearing the case, or to any directions given by that court, as the county court would have had to enforce the original decree, order, or rule.

Enforcement of order, where case stated.
27 & 28 Vict. c. 99. s. 36.

9. In the application of this Act to the courts held by the Recorder of Dublin, a judge of the High Court shall be instead of a judge of assize, according to the practice heretofore used in appeals from the Recorder.

Provision for special circumstances of Dublin county and city.

10.—(1.) In this Act, the expression "prescribed" means prescribed by rules and orders under this Act.

Rules of court, procedure, forms, scale of fees.

(2.) Rules and orders may be made for the purposes of this Act, and for prescribing forms, and for prescribing the notices required to be given to the parties to any suit or matter to which this Act applies, and for directing which of such parties are entitled to be served with such notices, and for prescribing scales of fees, costs, and stamp duties.

A.D. 1888.

(3.) Service of all notices and legal documents whatever may be effected, either according to the existing rules, orders, or statutory enactments applicable thereto, or in the prescribed manner.

(4.) In the case of the High Court the power of prescribing anything authorised by this Act to be prescribed shall be exercised by the authority, and subject to the conditions, by and subject to which the like powers are exercised under the Supreme Court of Judicature Act (Ireland), 1877. In cases arising under the Land Law (Ireland) Act, 1887, rules may be made by the authority mentioned in section thirty-three of the said Act.

(5.) In the case of the county court, the aforesaid powers shall be exercised by the authority and subject to the conditions by and subject to which they are exercised under the County Officers and Courts (Ireland) Act, 1877, as amended by any other Act or Acts.

(6.) In the case of the Land Commission, rules may be made in the manner provided by the Land Law (Ireland) Act, 1881.

All rules and orders, and scales of fees, costs, and charges, prescribed by rules made by the authorities mentioned in the said Acts respectively shall be and continue in full force and effect until altered according to law.

Jurisdiction
extended to
judge of
assize.

11. All jurisdiction, powers, and authorities conferred upon any civil bill court by the County Officers and Courts (Ireland) Act, 1877, and the County Court Amendment (Ireland) Act, 1882, are hereby conferred upon and may be exercised by any judge of assize engaged in hearing any appeal under this Act from any civil bill court.

Repeal.

12. From and after the passing of this Act section forty-three of the County Officers and Courts (Ireland) Act, 1877, and section eleven of the County Court Amendment (Ireland) Act, 1882, are hereby repealed.

County Court Appeals
(Ireland).

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B I L L

To amend the County Courts (Ireland)
Act.

(Prepared and brought in by
Mr. T. R. Baile, Mr. Clancy, Mr. Clancy, and
Mr. Michael Baile.)

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